

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 36111 of 2005(Y)

PETITIONER:

P.T. MOIDEEN KUTTY HAJI,
S/O. ALI PALLIYALLITHODI HOUSE,
CHAPPANGADI, KOTTAKKAL P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.N.MANOJ KUMAR
SRI.M.RISHIKESH SHENOY
SRI.P.C.GIRISH

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, LABOUR AND REHABILITATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
2. ADDL.DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS
WELFARE FUND BOARD, MALAPPURAM.

BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD
SMT.SMITHA SUKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/12/2007, THE COURT ON 19/12/2007 DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE PROVISIONAL DETERMINATION ORDER NO. EM-1389/2002-03/B3 DATED 13/06/2003 PASSED BY 2ND RESPONDENT.

P2 : COPY OF THE OBJECTION DATED 02/07/2005 FILED BY THE PETITIONER.

P3 : COPY OF THE FINAL DETERMINATION ORDER NO.B3-EM-1389/2002-2003/B3 DATED 17/09/2003 PASSED BY 2ND RESPONDENT FOR THE ASSESSMENT YEAR 2002-03.

P4 : COPY OF THE APPEAL NO.26314/S3/03/LBR FILED BY THE PETITIONER.

P5 : COPY OF THE APPLICATION DATED 30/05/2005 SUBMITTED BY THE PETITIONER BEFORE 1ST RESPONDENT.

P6 : COPY OF THE ORDER DATED 18/06/2005 PASSED BY 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 36111 of 2005

Dated, this the 19th day of December, 2007

J U D G M E N T

Heard learned counsel for the petitioner and learned standing counsel for 2nd respondent.

2. Petitioner is challenging final determination order demanding motor transport workers' welfare fund contribution for three workers for the stage carriage operated by the petitioner during the year 2002-03. Even though the petitioner has stated that the employees did not have the minimum period of service to attract liability, i.e. 90 days in an year, petitioner has not furnished details of other employees engaged during the year for operating the bus. Moreover, learned standing counsel submitted that adjudication is based on statement furnished by the petitioner who gave names and addresses of the employees engaged by them during the year. Even though learned counsel for the petitioner requested for remand for fresh adjudication, I feel such an order may lead to more adverse consequences for the petitioner because in the normal course, minimum 4, if not 5 workers are required for the operation of a stage carriage, if it has two doors. In the circumstances, there is no scope for interference with the demand.

However, petitioner is granted three equal monthly instalments to clear the balance arrears, first of which will be paid on or before 25/01/2008 and balance on or before 25th day of two succeeding months. If petitioner commits default in making payment of any of the instalments, the instalment facility granted will stand automatically vacated and respondents are free to proceed for recovery of entire arrears. If payment is made voluntarily, no collection charges should be recovered from the petitioner.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)